

U.S. Serial No. 10,663,728  
Amendment  
Reply to OA dated April 18, 2005

Atty. Docket No. 740165-362

### REMARKS

The undersigned attorney acknowledges with gratitude the brief telephone interview granted by Examiner Amari on August 16, 2005. New claim 11 is equivalent in scope to claim 1 rewritten in conformance with the agreement reached in the interview. Specifically, new claim 11 recites the limitations of claim 1, along with the additional limitation of:

“wherein a reflectivity of said reflecting film remains constant regardless of whether said hydrogen storing metal releases or absorbs said hydrogen ions.”

By contrast, layer 18 of the Rauh '414 patent changes reflectivity depending on whether it is reduced or the device is “bleached” (see col. 5, lines 46-49). Accordingly, new claim 11 is clearly patentable over the Rauh '414 patent.

Claim 1 has been revised to likewise more clearly distinguish the invention from the Rauh '414 patent albeit in a different way than new claim 11. Specifically, claim 1 has been amended to recite a reflecting element to comprises a mirror assembly “consisting essentially of” the elements of (1) a substrate through which light passes; (2) an electrode film which is electrically conductive and essentially transparent formed at a rear surface of the substrate; (3) a reduction coloring film formed at a surface of the electrode film wherein the reduction coloring film coloring is due “to a reversible chemical reaction with hydrogen ions;” and (4) an electrically conductive reflecting film formed at a surface of the reduction coloring film opposite to the electrode film. Thus, amended claim 1 limits the layer configuration of the invention to a four-layer structure. By contrast, the Rauh '414 patent discloses a six-layer structure (see Fig. 1), which includes an oxidized coloring film (*i.e.*, layer 16). Additionally, unlike the light modulating device disclosed in the Rauh '414 patent, the recited electrically conductive reflecting film of the invention is used as the hydrogen storing layer. By contrast, the layer 18 of the Rauh '141 patent (which is not present in Applicant's four-layer structure) acts as an ion storage medium that does not act as a reflecting film. For all these reasons, Applicant's attorney submits that amended claim 1 is patentable over the '414 patent.

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Claim 2 is patentable at least by reason of its dependency upon claim 1. Claim 3 is patentable not only for its dependency upon claim 1, but also for the fact that the Rauh '414 neither teaches nor suggests applying the materials disclosed in column 5, line 59 through column 6, line 4 to a reversible, electrically conductive reflecting film in the claimed 4-layer configuration.


Claims 4, 5, 6, 7 and 8 are each patentable at least by reason of their ultimate dependency upon amended claim 1.

Claim 9 is patentable not only by virtue of its dependency upon claim 1, but for its recitation of a light sensor. This is a significant aspect of the invention, as it allows the claimed mirror assembly to control reflectance when light from a following vehicle impinges on the mirror assembly, thereby allowing the vehicle operator to easily see.

Now that all the claims are believed to be allowable, the prompt issuance of a Notice of Allowance and Issue Fee Due is hereby earnestly solicited.

The Commissioner is authorized to charge any overage or shortage of fees connected with filing of this Amendment to Deposit Account No. 19-2380 (740165-362).

Respectfully submitted,

  
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